

A. G. Contract No. KR920321TRN  
ECS File: JPA 92-30  
Project No.: M-890-6(1)P  
TRACS No.: NA SLW S S237 01 C  
Project: Old Linden Road  
Central Avenue to US-60

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF SHOW LOW

THIS AGREEMENT is entered into 10 June, 1992,  
pursuant to Arizona Revised Statutes, Sections 11-951 through  
11-954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
CITY OF SHOW LOW, ARIZONA acting by and through its City  
Council (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The City is empowered by Arizona Revised Statutes  
Section 48-572 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has  
authorized the undersigned to execute this agreement on behalf  
of the City.

3. Congress has authorized appropriations for, but not  
limited to, the construction of streets and primary, feeder and  
farm-to-market roads; the replacement of bridges; the  
elimination of roadside obstacles; and the application of  
pavement markings.

4. Such project within the boundary of the City has been  
selected by the City; the field survey of the project has been  
completed; and the plans, estimates and specifications have  
been prepared and, as required, submitted to the Federal  
Highway Administration (FHWA) for its approval.

NO. <u>16737</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>06/10/92</u>
<u>Richard Mahoney</u> Secretary of State
By <u>Wm. V. Greenwald</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide the State with the City funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work embraced in this agreement and the estimated cost are as follows: ROADWAY RECONSTRUCTION, DRAINAGE, GRADING AND PAVING

Estimated Project Cost	\$ 372,371.00
Federal Funds @ 92.88% of \$372,371.00	\$ 345,858.00
2% Surcharge of Total Cost	\$ 7,447.00
Total City Funds	\$ 33,960.00*

\* This includes a 2% surcharge on the total cost as per Chief Deputy State Engineer memo of February 2, 1982.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the City, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the City's deposit unless and until so authorized in writing by the City.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required.

Upon completion of the construction contract, the State shall return to the City any part of the funds deposited by the City remaining after City's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The City shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the City shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the construction and construction engineering work covered by this Agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the City agrees to furnish and provide State with City funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518 (B) and (C).

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, Arizona 85007

City of Show Low  
City Manager  
200 West Cooley Street  
Show Low, AZ 85901

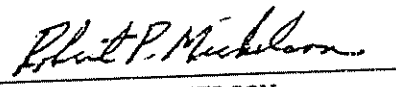
9. Attached hereto and incorporated herein is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

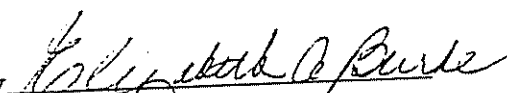
CITY OF SHOW LOW

STATE OF ARIZONA  
Department of Transportation

By   
GERRY WHIPPLE  
Mayor

By   
ROBERT P. MICKELSON  
Deputy State Engineer

ATTEST:

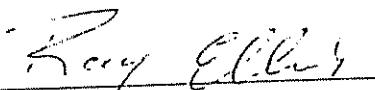
By   
JEFFREY P. JAGEL  
City Clerk  
ELIZABETH A. BURKE

JPA 92-30

RESOLUTION

BE IT RESOLVED on this 13th day of February 1992, that I, CHARLES E. COWAN, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Show Low for the purpose of defining responsibilities for the design, construction and maintenance of improvements to Old Linden Road, Central Avenue to US-60 in the City (Local Government).

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted for approval and execution by the Deputy State Engineer.

  
Pc. CHARLES E. COWAN  
Director

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- E. Consideration of Intergovernmental Agreement with Arizona Department of Transportation on Old Linden Road Widening Project - #R-5589. (Bruce Canavan)

Mr. Canavan stated that this project is well underway and the plans have been turned over to ADOT. He said that all of the rights-of-way have been secured. He said that one requirement is that the City enter into an Intergovernmental Agreement (IGA) with ADOT. He said that other than the dollar amount and name of the City Clerk, the document presented is ADOT's standard IGA.

Mr. Canavan said that there are a lot of cities which are not happy with this agreement, but in this stage there is not much that can be changed.

Mr. Canavan said that NACOG has increased the funding for this project by \$100,000 which leaves the amount of City funds at \$136,434.00.

Vice Mayor Lara asked Mr. Canavan to review this project for the benefit of the public. Mr. Canavan said that it starts with the intersection of Old Linden Road and US60, west to Central, approximately 1/2 mile of road with curb, gutter and sidewalk. He said that there will be some regrading and they will be lowering the water and sewer lines along this course.

Vice Mayor Lara asked if the City Attorney had reviewed the agreement. Mr. Davis said that he did, but he did not like it because the State will be running the project and the City will be stuck with all of the overruns. He said that he can see a traffic light becoming the City's problem in the future, but he doesn't see them getting into that now. He noted that there should be a place for the City Attorney to sign.

Councilman King asked if Mr. Davis was saying that the City cannot contest any of the overruns. Mr. Davis said that the City Engineer will be on top of those issues. Mr. Canavan said that the City does keep an eye on things; he added that the State does do their best.

Councilman King asked why there was an increase in cost. Mr. Canavan said that as the design progressed,

there were several things that had to be added into the project for drainage consideration such as tying into existing grades, driveways, etc. He said that a lot of detail work increased the cost, plus with this project being federally-funded, it is a Davis-Bacon job..

COUNCILMAN STINSON MOVED TO APPROVE THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE OLD LINDEN ROAD PROJECT, WITH THE NOTED REVISIONS (CHANGING THE NAME OF THE CITY CLERK AND ADDING A SIGNATURE LINE FOR THE CITY ATTORNEY); SECONDED BY COUNCILMAN KING.

Councilwoman Ledet asked if any of the additional \$100,000 was for right-of-way acquisition. Mr. Canavan said that the increase was strictly for construction costs.

MOTION PASSED UNANIMOUSLY.

- F. Consideration of Award of Bid for Ninth Street Sewer Project - #S-2789. (Bruce Canavan)

Mr. Canavan stated that Westrans was low bidder on this project, with a bid of \$71,906.76; the Engineer's estimate was \$80,000.

Councilman King asked if Mr. Canavan was comfortable with Westrans. Mr. Canavan said that he is. He said that they have had both a prebid meeting and also several communications and he is comfortable with this.

COUNCILMAN KING MOVED TO FOLLOW STAFF'S RECOMMENDATION AND AWARD THE BID FOR THE NINTH STREET SEWER REHABILITATION, PROJECT NO. S-2789, TO WESTRANS CONSTRUCTION, INC. IN AN AMOUNT NOT TO EXCEED \$71,906.76; SECONDED BY VICE MAYOR LARA.

Councilwoman Ledet asked if there was provided a portfolio of work which this company has done. Mr. Canavan said that there was; it was provided as part of the bid package. He noted that Westrans also worked on the City's Industrial Park Building.

MOTION PASSED UNANIMOUSLY.



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APPROVAL OF THE SHOW LOW CITY ATTORNEY

*I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF SHOW LOW and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.*

DATED this 30<sup>th</sup> day of April, 1992.

A handwritten signature in cursive script, appearing to read "Dennis Roberts", is written over a horizontal line.

City Attorney



STATE OF ARIZONA  
OFFICE OF THE ATTORNEY GENERAL  
1275 WEST WASHINGTON, PHOENIX 85007

GRANT WOODS  
ATTORNEY GENERAL

May 29, 1992

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR92-0321-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 28<sup>th</sup> day of May, 1992.

GRANT WOODS  
Attorney General

A handwritten signature in dark ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:ls  
7333G/85